

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BULLION EXCHANGE LLC,

Plaintiff,

v.

BULLION SHARK, LLC, and EKATERINA OVODOVA,

Defendants.

Case No. 24-CV-00467 (DG)

DECLARATION OF STEVEN KOGAN IN SUPPORT OF PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

STEVEN KOGAN declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the President and owner of Mr. Fix IT Technologies, Inc. ("Mr. Fix IT"), an IT consulting firm based in Brooklyn, New York that provides information technology and cybersecurity services to businesses. I make this declaration in support of the motion brought by Bullion Exchange LLC ("Bullion Exchange" or "Plaintiff") for a temporary restraining order and preliminary injunction to, among other things, prevent the defendants, Ekaterina Ovodova ("Ovodova") and Bullion Shark, LLC ("Bullion Shark") (Ovodova and Bullion Shark are referred to collectively as the "Defendants"), from continuing to use and profit from Bullion Exchange's confidential information and trade secrets, including Plaintiff's client lists. This declaration is based on my personal knowledge of the facts set forth herein that I gained in my capacity as Bullion Exchange's IT and cybersecurity consultant.

A. My Experience and Business Relationship with Bullion Exchange LLC

2. By way of background, I have more than fifteen (15) years of experience providing IT consulting and cybersecurity services to a wide range of businesses. Since 2018, I have provided IT consulting and security services to Bullion Exchange.

3. In my role as an IT and cybersecurity consultant for Bullion Exchange, I made recommendations and guided Bullion Exchange through the implementation of various security measures to protect its networks, servers, and employee computers from unauthorized access, including:

- a. Installation of Dell SonicWALL firewall hardware on Bullion Exchange systems to control inbound and outbound network traffic, close unneeded ports, prevent unwanted access, and provide virus scanning;
- b. Implementation of an encrypted internal network, external network, and cloud storage for Bullion Exchange's most critical data like customer lists, vendor contracts, and other trade secrets;
- c. Configuration of access controls on all Bullion Exchange systems to restrict access to sensitive data and limit access for that data to those employees that require such access to perform the essential duties of their employment;
- d. Enforcement of limited remote access controls through multi-factor authentication and the use of virtualization technology that allows Bullion Exchange to control and limit employee use of data stored on its internal network when accessing their workstations from outside the office;
- e. Installation of antivirus software on all Bullion Exchange machines to detect and remove malware, which I can monitor and control remotely;
- f. Ongoing network monitoring to identify abnormal activity that could indicate potential unauthorized access attempts.
- g. Informing Bullion Exchange's management of best practices and policies for protecting the integrity of Bullion Exchange's information, including confidential information and trade secrets;

4. These security measures were intended to prevent unauthorized access to Bullion Exchange's confidential data and trade secrets.

B. Discovery and Detection of Ovodova's Misconduct

5. On or about October 1, 2023, I received an urgent call from Ernest Gozenput, Bullion Exchange's Chief Executive Officer (whom I refer to as "Eric"). Eric advised me that Ovodova gave her notice of resignation on September 7, 2023, and resigned on September 15, 2023. Although Ovodova had advised Eric that she would be taking a marketing position outside of the rare coin, bullion, and precious metals industry, Eric had just learned in October that Ovodova was working as the Head of eCommerce for Bullion Shark, which is one of Bullion Exchange's competitors.

6. As Bullion Exchange's Director of Marketing, Ovodova was one of Bullion Exchange's few employees with full access to its marketing materials, market and industry research, and Bullion Exchange's client lists. Eric was understandably concerned that, given the circumstances of Ovodova's departure, she may have made unauthorized copies of Bullion Exchange's trade secrets and confidential information, including its client lists and marketing materials, with the intent to use that information to help Bullion Shark in her new position as its Head of eCommerce.

7. Eric asked me to help him conduct an investigation to determine whether his fears were valid. Unfortunately, we discovered that Eric's fears were justified.

8. Eric and I worked together to review Ovodova's internal activity and her use of external company accounts for cloud-based marketing and research services. As part of this investigation, we reviewed Ovodova's company email account that is hosted in Google Workspace

(Gmail's business email account client), the files she stored in the Google Drive that was provided by Bullion Exchange for Ovodova's use, and Bullion Exchange's Ahrefs account.¹

9. The first thing we noticed when scanning Ovodova's accounts was that she had attempted to delete all of the emails in the first page of her sent folder for her Bullion Exchange email account. We also discovered that she had also deleted: (i) all of the files she had backed up in the Google Drive account provided for use by Bullion Exchange; (ii) her browser history; and (iii) all logs of her online activity from her workstation.

10. As Bullion Exchange's network administrator, I was able to restore some of Ovodova's deleted emails, but only going back as far early September. I was also able to restore some of the deleted files from the Google Drive account provided to her by Bullion Exchange. Unfortunately, I was not able to restore Ovodova's browser history or the logs of her online activity from her workstation, along with other data that is missing and cannot be recovered.

11. From the files we were able to recover from Ovodova's company Google Drive account, we discovered that in late August 2023, Ovodova had made unauthorized copies of Bullion Exchange's market research, data, and analytic reports from Bullion Exchange's Ahrefs account that she saved to the company's Google Drive.

12. Among these restored files, we discovered that between August 24-25, 2023, Ovodova made an unauthorized copy of Bullion Exchange's marketing strategy that she saved to her company Google Drive. She then edited Bullion Exchange's market strategy and analytics reports to change the name on those reports from "Bullion Exchange" to "Bullion Shark" or "Shark" (the "Bullion Shark Marketing Strategy"). Proof of this discovery is attached as Exhibit 3 to the Gozenput Declaration, which includes screenshots taken from some of the files Ovodova

¹ The Ahrefs platform is a comprehensive marketing platform designed to help marketers manage complex online campaigns, assist with search engine optimization, and nurture leads effectively.

created for Bullion Shark between August 24-25, 2023 using Bullion Exchange's confidential information and trade secrets. Ovodova left Bullion Exchange's propriety data and trade secrets in the Bullion Shark Marketing Report and then used Bullion Exchange's account for the Ahrefs platform to generate optimized links for Bullion Shark's products that she added to this document.

13. Eric and I also discovered that, on September 6, 2023, Ovodova logged into Bullion Exchange's account with Constant Contact which the service used by Bullion Exchange to run marketing campaigns directed to its online customers.² Ovodova exported Bullion Exchange's client lists from its Constant Contact account to her office workstation's desktop in the form of .csv files that are accessible using Microsoft Excel or Google Sheets software. Ovodova then attached these two (2) .csv files containing Bullion Exchange's customer lists to an email she created using her company email account. At 3:55pm on September 6, 2023, Ovodova sent that email containing Bullion Exchange's client lists to her personal email account. A copy of the email Ovodova sent to herself on September 6, 2023, with the Bullion Exchange's client lists attached is annexed as Exhibit 4 to the Gozenput Declaration.

14. After sending this email from her company email account, Ovodova immediately deleted the email, along with the copies of the customer lists she had created. She then emptied the "recycling bin" on email account in an attempt to permanently delete record of the unauthorized email she sent containing Bullion Exchange's customer lists.

² Constant Contact is an online marketing platform designed to help businesses with their marketing, engagement, and sales needs. Bullion Exchange stores its customer lists in secured cloud-based storage hosted by Constant Contact. Bullion Exchange then uses the extensions and plug ins provided by Constant Contact to link its website accounts, eBay store, and other sources for lead generation to Constant Contact, which automatically aggregates this data in Bullion Exchange's customer lists. Bullion Exchange can then use Constant Contact's marketing and customer relationship features to create automated marketing campaigns, run promotional events, and track marketing data and analytics.

CONCLUSION

15. In my opinion, Bullion Exchange implemented reasonable software, hardware and data security systems and policies to safeguard its trade secrets and confidential information. Nevertheless, a company has to be able to trust its employees to use this data for the company's benefit or the data has no value.

WHEREFORE, I respectfully request that the Court grant Plaintiff's motion for a temporary restraining order and preliminary injunction.

I declare under penalty of perjury that all of the forgoing is true and correct.

Dated: November 28, 2023
Brooklyn, New York

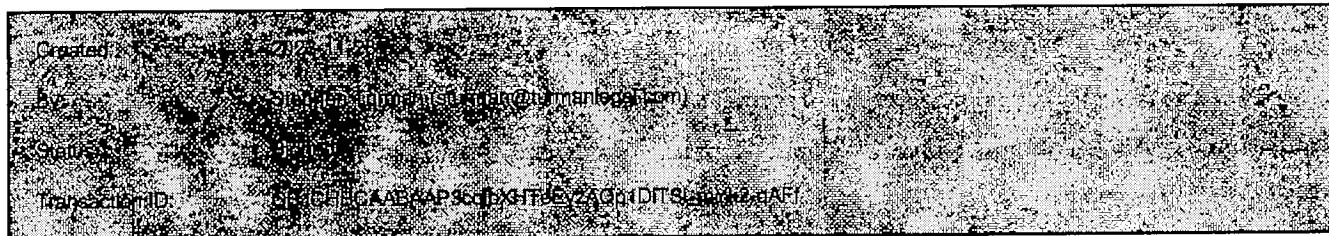
Steven Kogan
Steven Kogan (Nov 28, 2023 23:05 EST)

Steven Kogan

Declaration of Steven Kogan (112823)

Final Audit Report

2023-11-29



"Declaration of Steven Kogan (112823)" History

- ✉ Document created by Stephen Turman (sturman@turmanlegal.com)
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- ✍ Signer stevenk@mrfixittech.com entered name at signing as Steven Kogan
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